

## **Summary of 9-21-12 interview of Marilyn Evans-Jones**

Interview and summary by Thomas M. Patton, Deputy Attorney General

### **Background**

Marilyn Evans-Jones has worked for the State of California for 32 years. She started in 1980 at the Department of Water Resources, worked in the agency's budget office for 28 years, and gained experience preparing its budget and fund condition statement for the Department of Finance (DOF). (Marilyn Evans-Jones 9-21-12 interview transcript (MEJtr), pp. 2-4.)

In 2008 Evans-Jones was hired into the budget office of the Department of Parks and Recreation. At Parks she was the "support budget manager," which is the number two position in the Department's budget office, and supervised the staff that puts together the "support budget" as opposed to the "capital outlay budget." The support budget and its underlying documentation, such as budget change proposals and funding requests, were in turn presented to her supervisor, then-budget officer Cheryl Taylor. (MEJtr, pp. 4-8, 16.)

Evans-Jones received DOF training in how to prepare a fund condition statement. She indicated the fund condition statement is based on information obtained through the agency's accounting office, which maintains an agency's revenue and expenditure records as well as actual current fund balances. Evans-Jones further stated that in preparing a fund condition statement, one should obtain the fiscal year-end actual fund balance information reported by the agency's accounting office to the State Controller's Office (SCO). (MEJtr, pp. 8-9, 11-12).

### **Disparities in and Changes to Balances Reported for the State Parks and Recreation Fund**

#### **1. SPRF disparities; interview conversation part one**

Evans-Jones stated that when she first worked on a fund condition statement for Parks she noticed and advised Taylor something was wrong because her numbers were way off from what was in the previous year's Governor's budget. She specifically recalled that the disparity concerned the State Parks and Recreation Fund (SPRF), fund number 0392, and was between \$19 and \$20 million. Evans-Jones stated she was looking at numbers in the SPRF for fiscal year 2007-08 when she first saw the disparity, and while she was working on building the SPRF fund condition statement for fiscal year 2008-09. Evans-Jones recalled that she reviewed the budget galleys and SPRF fund condition statement prepared by the budget office and sent to the DOF

for the prior year, and also reviewed the fund balance reflected in the accounting report sent to the SCO for the prior year, and saw that the reported SPRF balances were different, with far less having been reported to the DOF. (MEJtr, pp. 9, 13-16, 19.)

Evans-Jones reports that she and Taylor asked the previous support budget officer, Jason Summers, about the disparity, and Summers responded: "If I tell you, I'll have to kill you." Evans-Jones reports that Summers advised they should talk to administrative services deputy director Manuel Lopez about why the numbers were off. Evans-Jones stated that in addition to acknowledging the disparity, Summers indicated it had existed since Becky Brown had been there, and that Summers gave no indication why it existed.<sup>1</sup> (MEJtr, pp. 9, 16-17.)

Evans-Jones stated she then talked with Manuel Lopez, then-deputy director of administrative services, and that Lopez acknowledged there was a disparity in the SPRF fund balances reported to the DOF and the SCO, and gave no explanation why. Evans-Jones reports that Lopez told her he wanted to see all fund condition statements before they went to the DOF, wanted them displayed a certain way, and that he would tell her what he wanted the numbers to be. (MEJtr, pp. 18-20.) Evans-Jones explained that Lopez was looking to insert a number that was less than the actual balance reflected in the accounting reports to the SCO, so that the fund condition statement was consistent with the previous year's fund condition statements and continued to reflect that the SPRF balance remained low. (MEJtr, pp. 21-22.)

Evans-Jones reports that in response to Lopez's directive she provided him electronically an Excel spreadsheet containing the numbers for the SPRF as well as for all other funds. She stated that Lopez directed that the balance in the SPRF fund condition statement be changed to something like \$490,000 or \$512,000, and that she then made the change Lopez required and sent Lopez the revised Excel spreadsheet. (MEJtr, pp. 22-24.) Evans-Jones stated that:

"If it - - if the balance was where he wanted to see it, then I could send it to Department of Finance. If not, then it would be changed, and then it would come back to me to go to Department of Finance."

(MEJtr, p. 23.)

Jones also stated there had been occasions when Lopez would change a number in an Excel spreadsheet and send the changes back to her. With regard to the SPRF, however, she did

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<sup>1</sup> Becky Brown was the Department's chief budget officer from 1997 to 2005.

not recall Lopez making any change. Instead, she recalled that Lopez gave her the direction as to what the numbers should be, and she then made the changes. (MEJtr, pp. 24-25.)

Evans-Jones indicated that in addition to the change in the SPRF fund condition statement for the 2008-09 budget submission, which reduced the balance by \$19 or \$20 million, a change in the reported SPRF fund condition balance in a similar amount was again made for fiscal year 2009-10. She recalled that the change for 2009-10 reduced the balance being reported in the DOF fund condition statement to about \$400,000 or \$500,000. She stated that she again personally made that change at Lopez's direction. (MEJtr, pp. 34, 40-41.)

Evans-Jones reports that she did not work on any fund condition statements in the fall of 2010, was not asked to make any further changes to such statements, and in fact she did not do anything at Parks for most of 2010. She stated that instead, Manuel Lopez and David Saxby took over and ran the budget office. Evans-Jones advised that she did not discuss the fund balance disparity with Saxby. (MEJtr, pp. 49-50, 56.)

## **2. Projected SPRF surplus; demotion and suspension of duties**

Evans-Jones recounted that Cheryl Taylor went on leave in the fall of 2009 and for a period of time Evans-Jones worked out of class as acting head of the budget office. She recalled doing projections in early 2010, in coordination with what accounting was reporting, and stated that her projections indicated a surplus of \$20 to \$25 million in combined SPRF and general fund dollars would be left over at the end of the fiscal year. She stated that the Parks accounting office agreed with her projections, and Manuel Lopez did not agree. (MEJtr, pp. 34-42.)

Evans-Jones recalled that Taylor returned in February of 2010, and in March of 2010 Evans-Jones was relieved of essentially all her support duties at Manuel Lopez's order. Evans-Jones stated she was demoted from her out-of-class assignment back to a manager I, that Taylor was also demoted, and that David Saxby was brought in to take charge of the budget office. Evans-Jones stated that after being relieved of her out-of-class manager II assignment and reverting to her manager I position, she was actually relieved of almost all duties and did nothing for approximately a year, other than walk a lot. Evans-Jones recalled that Lopez was frustrated and unhappy with her projections that a surplus of approximately \$25 million SPRF and general fund dollars would remain at the end of fiscal year 2009-10, and Lopez believed the projections

were wrong. Evans-Jones stated her projections were ultimately proven right. (MEJtr, pp. 42-44, 47.)

When asked what became of the \$25 million dollar surplus, Jones stated that normally year-end encumbrances would be made to purchase things like new computers for everyone, and she believes the Department was able to spend the majority of the \$25 million dollar surplus, and that perhaps \$12 million was still left over. (MEJtr, pp. 54-55.)

Evans-Jones recalled doing essentially no work from early 2010 to early 2011. She recalled that Taylor left the Department and on February 14, 2011, Elsie Brenneman was brought in as budget officer. Evans-Jones stated that Brenneman had Evans-Jones train another person, Rachele Manges, who took over Evan-Jones' position as the support budget manager, and Evans-Jones became the capital outlay budget manager. Evans-Jones advised that she did not discuss the fund balance disparity with Elsie Brenneman. (MEJtr, pp. 47-52, 56.)

Evans-Jones concluded this part of the discussion by noting that Manuel Lopez was very difficult to work for, and that he yelled a lot and was not a nice person. She stated that Saxby told her not to even apply for the budget officer position after Taylor left because her application would not be considered. Evans-Jones reports that she left Parks at the end of 2011 and went to work for the Department of Developmental Services where she is in charge of that Department's support budget. (MEJtr, pp. 66-68.)

### **3. SPRF disparities; interview conversation part two**

Evans-Jones advised that, based on the previous budget galleys she looked at, the disparate fund condition reporting for the SPRF was an established practice dating back a number of years, although she could not recall how many. She stated that she was puzzled why the Department was doing this when it had money that was needed. She talked with Taylor and chief accounting officer Dorothy Kroll about the failure to disclose the true SPRF fund balance to the DOF, and both agreed it was puzzling. (MEJtr, pp. 56-57.)

Jones stated the only rationale she heard for why this was being done was the belief that if the additional SPRF monies were revealed to the DOF, it was likely the SPRF appropriation would be increased and the general fund appropriation decreased. Evans-Jones could not recall who told her that, though she agreed it may likely have come from Lopez. (MEJtr, pp. 58-59.)

When asked if she had ever talked about the disparity with anyone else, Jones stated she once asked her DOF analyst, whom she described as the best analyst ever and whose name she recalled was Maria Loyama: “Do you ever look at the financials and compare them to the fund condition statements?” Evans-Jones reports that the analyst said “no” and Evans-Jones left it at that. (MEJtr, pp. 60-62.)

Jones stated that after Brenneman came to the budget office in 2011 Evans-Jones did no more work with fund condition statements as it was not in her “area.” She recalled that Brenneman did ask her to look at fund condition statements, but did not recall why. Evans-Jones stated she was not aware if Brenneman ever detected any disparities in fund condition statements for either the SPRF or the Off-Highway Vehicle (OHV) fund. When asked if she had suggested that Brenneman might want to compare the SPRF balance reports, much like she had suggested to her DOF analyst, Evans-Jones stated she did not because Brenneman had indicated she knew what she was doing and did not need or want Evans-Jones’ help. (MEJtr, pp. 63-65.)

Evans-Jones stated she has never had a similar experience in state government where she was directed to do something with a finance report that was incorrect. She agreed it was unsettling and alarming, and stated that Manuel Lopez was not the type of person you question about why things are the way they are. When asked if she considered going above Lopez, Evans-Jones stated that she did talk to then-chief deputy director Michael Harris about her working conditions with Lopez and Saxby after all her work had been taken away, but did not talk with Harris about being instructed to change numbers which resulted in incorrect information being sent to the DOF. When asked why, Jones stated she believed that Harris already knew about it and that reporting the matter to him would be futile. She believed Harris knew of the disparity in SPRF balance reports because she was aware Harris had previously worked in the Parks budget office, and stated that she thought perhaps she and Taylor had talked with him about the fund condition statements. (MEJtr, pp. 70-72.)

## **Changes to the Fund Condition Statement for the Off-Highway Vehicle Fund**

Evans-Jones recalled that loans of OHV monies to the state general fund had been made in fiscal years 2008-09 and 2009-10, in the amounts of \$90 and \$21 million respectively.<sup>2</sup> Evans-Jones also described a meeting with Lopez, and OHV deputy director Daphne Greene and assistant deputy director Phil Jenkins, and recalled that Greene and Jenkins were not pleased about the OHV fund being “raided for loans.” (MEJtr, pp. 26-27.)

Evans-Jones stated she recalled some discussion of making a change to the OHV fund balance and hearing a comment that because a change was made in the SPRF fund balance a change could also be made with the OHV fund balance. When asked who made the comment, Evans-Jones indicated she was unsure, and stated she did not think it was Greene or Jenkins since they did not know about the SPRF account. Evans-Jones then indicated the comment might have been made in a different conversation with Lopez. (MEJtr, pp. 27-28, 33)

Evans-Jones recalled that on one occasion a fund condition balance report for the OHV fund was changed. She recalled that she sent Lopez the fund condition statement for OHV and that a change was made with regard to the 2009-10 budget year. She stated the change came from Lopez’s office and was not made by her. She indicated the change was in the tens of millions and: “It probably increased expenditures so that the fund balance would be lower.” Evans-Jones stated: “I don’t remember that one because that was not something that was a regular; that was something different for OHV.” She stated she was unaware of any other changes in OHV financial reports for any other years. (MEJtr, pp. 25, 29-32.)

The OHV fund issue was revisited later in the interview. Evans-Jones stated she could not recall with specificity what expenditures might have been adjusted in the OHV fund condition report. The DOF’s spreadsheet showing the OHV Fund balances reported from 1993 to 2011 was then reviewed. (See Exhibit A attached.) It was observed that the difference between OHV fund balances reported to the DOF and SCO at the close of fiscal year 2008-09 was \$5,603,000, and not a difference in the tens of millions of dollars. Evans-Jones had no explanation why such a sizeable change might have been made to the OHV fund condition

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<sup>2</sup> Evans-Jones’ recollection accords with the Off-Highway Motor Vehicle Recreation Commission’s 2011 Program Report, which notes at page 10 that \$90 and \$22 million in OHV monies were loaned to the general fund in fiscal years 2008-09 and 2009-10, respectively.

report. She did recall that the statement included a land purchase and other items requiring a budget change proposal, and stated it would be harder to change OHV figures than SPRF figures. (MEJtr, pp. 77, 80-81.)

**Interviewer's comment:** The DOF spreadsheet indicates that at the end of fiscal year 2009-10, the fiscal year when Evans-Jones indicates the OHV fund condition balance reported to DOF was reduced, \$20,580,000 *more* was reported to the DOF than was reported as the cash balance to the SCO. (Exhibit A attached.) The data is thus not consistent with Evans-Jones' recollection that a sizeable downgrade of the OHV Fund balance was made in fiscal year 2009-10 and that such downgrade resulted in a lower OHV balance being reported to the DOF.